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National Cable Television Association

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July 23, 1996

Delivered by Hand

The Honorable Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

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JUL 23 1996
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: Interconnection Proceeding, CC Docket No. 96-98

Dear Chairman Hundt:

As the Commission moves to the final stages of setting rules implementing the Telecommunications Act of 1996 to open local telephone monopolies to competition, we write to reaffirm the need for uniform national standards to govern that transition. National uniformity will ensure that the competitive battle anticipated by the 1996 Act will be fought speedily in the marketplace, not drag on interminably on the regulatory battlefield. Congress could not have been clearer in its desire to spur competition in all sectors of the communications economy, particularly local service. As we have argued in our comments and replies in this proceeding, national guidelines are a must to accomplish Congress' objective.

Uniform national standards will permit the construction and operation of facilities-based regional networks that benefit consumers. They will encourage incumbent and competitive local exchange carriers to reach acceptable interconnection agreements and thereby initiate competition at the local level. And national regulatory consistency will provide the climate necessary to promote investment in competitive facilities.

We have attached several specific suggestions for consideration in finalizing the Commission's decision in this docket. These proposals, along with the recommendations made in our comments, will help insure that the nation's cable television operators, among others, have the opportunity to compete in the local exchange marketplace.

Sincerely,



Decker Anstrom

DA:tb

Attachment

cc: The Honorable Rachelle Chong
The Honorable James Quello
The Honorable Susan Ness
Regina Keeney, Chief, Common Carrier Bureau
William F. Caton, Acting Secretary

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List A B C D E

NATIONAL CABLE TELEVISION ASSOCIATION, INC.
EX PARTE FILING - CC DOCKET NO. 96-98

ACCESS CHARGES

**TRANSPORT AND TERMINATION;
MEASUREMENT PERIOD FOR BILL AND KEEP**

RESALE DISCOUNT

**PRECLUDING THE IMPOSITION OF INCUMBENT CARRIER REQUIREMENTS
ON COMPETITIVE CARRIERS**

The National Cable Television Association ("NCTA") strongly supports the Commission's efforts to establish a national policy framework to promote facilities-based telecommunications competition. The establishment of such a framework is supported by the clear language and intent of the 1996 Act.

As the Commission enters the final phase of developing its order in this critical proceeding, NCTA offers the following suggestions on establishing an appropriate definition of "avoided costs"; exempting facilities-based CLECs and their customers from the payment of any access charge contributions to ILECs; implementing a measurement period to determine the appropriateness of bill and keep; and precluding the imposition on competitive local exchange carriers ("CLECs") of requirements intended for incumbent local exchange carriers ("ILECs"), such as unbundling and mandated discounts for resale.

1. **Access Charges.** A CLEC that utilizes facilities other than those of an ILEC to provide exchange access should not be required to pay any carrier common line charge or transport interconnection charge to the ILEC. To the extent an interexchange carrier ("IXC") obtains exchange access from such a CLEC, measured in minutes switched by the CLEC, the IXC should not be required to pay such charges to the ILEC as part of a "bulk billing" arrangement or otherwise. Requiring IXCs to continue to hold ILECs harmless even for traffic originated or terminated on CLEC facilities would create a strong incentive for IXCs to remain on ILEC facilities and thus discourage the development of facilities-based competition. If a CLEC hands off access traffic at an ILEC end office, it should enter into a meet point compensation arrangement with the ILEC under which the CLEC pays only the charges associated with the functions the ILEC performs in terminating the traffic, *i.e.*, local switching elements and the carrier common line charge. Because the CLEC would be providing tandem switching and transport using its own facilities, however, it should not be required to pay the transport interconnection charge.

2. **Transport and Termination; Measurement Period for Bill and Keep.** Long run incremental costs -- without any overheads, common costs, legacy costs, or markups -- is the appropriate pricing standard for transport and termination. Section 252(d)(2)(A)(ii) of the

Communications Act mandates that these rates be based on the incremental cost to terminate an additional call originating on another carrier's network. Filings by ILECs in this proceeding and in State proceedings indicate that a blended rate of 0.2 cents per minute is reasonable. See, e.g., Letter from Whitney Hatch, GTE Service Corp., to William F. Caton (July 11, 1996).

As provided by the 1996 Act, States should be permitted to order bill and keep compensation arrangements for transport and termination. Bill and keep is an efficient means of compensation, especially when traffic is in balance or close to balance (e.g., providers terminate at least 45 percent of the number of minutes they originate). For purposes of determining whether bill and keep is appropriate, however, it would be premature to measure a CLEC's traffic until the CLEC has had a reasonable opportunity under fair competitive conditions to establish a traffic exchange with the incumbent. During such a "measurement period," a State should be able to order bill and keep even if traffic is not in or near balance. Recently-announced interconnection agreements provide for measurement periods ranging from 6 months after the CLEC begins offering service (Time Warner-Bell South) to 1 year after the implementation of full number portability (Teleport-Pacific Bell). To encourage the development of competition, NCTA proposes that the States be authorized to order bill and keep arrangements between an ILEC and a CLEC, regardless of the balance of traffic, for a period ending one year after the ILEC has deployed full number portability consistent with the FCC's final rules.

3. **"Avoided Costs."** The "avoided cost" standard for calculating the wholesale discount preserves the viability of resale, but stops short of mandating a deep discount that would deter facilities-based competition. The Commission should specify that avoided costs do not include any contributions, overheads, maintenance, or other similar costs that, by their very nature, are not "avoided" by an ILEC when it makes services available for resale.

4. **Precluding the Imposition of Incumbent Carrier Requirements on Competitive Carriers.** Consistent with the statutory distinction between ILECs and CLECs, the Commission should preclude State efforts to impose on CLECs such requirements as the unbundling of network elements and the offering of resale services at any mandated discount off the retail rate. Nor can the FCC impose unbundling requirements on a CLEC as a condition of obtaining unbundled elements from an ILEC.

Preemption of State imposition of ILEC requirements on CLECs should be sufficiently specific to be self-executing, without the need for a further petition for declaratory ruling that will create unnecessary regulatory burdens for the FCC, CLECs, and States.